

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
On-Briefs September 20, 2007

ARCENTA HARRISON v. QUENTON WHITE, ET AL.

**A Direct Appeal from the Chancery Court for Davidson County
No. 03-1841 II The Honorable Richard Dinkins, Chancellor**

No. M2006-01386-COA-R3-CV - Filed December 4, 2007

The *pro se* Appellant, who was an inmate in the custody of the Tennessee Department of Correction, appeals the trial court's dismissal, on the ground of mootness, of his request for medical records. Finding that the Appellees herein did provide Appellant with all medical records held by Appellees, we affirm the order of the trial court.

Tenn. R. App. P. 3; Appeal as of Right; Judgment of the Chancery Court Affirmed

W. FRANK CRAWFORD, J., delivered the opinion of the court, in which ALAN E. HIGHERS, P.J., W.S. and DAVID R. FARMER, J., joined.

Arcenta Van Harrison, Pro Se

Robert E. Cooper, Jr., Attorney General and Reporter and Arthur Crownover II, Senior Counsel for Appellees, Quenton White and Howard Cook

OPINION

Arcenta Van Harrison ("Petitioner," or "Appellant") was an inmate in the custody of the Tennessee Department of Correction ("TDOC"). Mr. Harrison claims that he suffers from hypertension, and that, from 1998 through 2004, he was taken by ambulance to a Nashville hospital on at least three occasions. During one of these hospital stays, Mr. Harrison states that he began requesting a copy of his medical records by filing TDOC Form CR-3118, Inmate Inquiry Request. This form indicates that Mr. Harrison's request was denied because "[y]ou cannot get copies of your record except by court order." Mr. Harrison appealed this decision through the proper administrative channels.

On June 27, 2003, Mr. Harrison filed a "Motion for Medical Records" in the Chancery Court for Davidson County, seeking to obtain a copy of his medical records under the Medical Records Act. The named respondents are Quenton White, former TDOC Commissioner, Howard Cook, former TDOC Assistant Commissioner, Robert Bradford, TDOC Health Services Director, and Faye

Jeffers, Assistant Medical Director at the Morgan County Correctional Facility (together with Messrs. White, Cook, and Bradford, “Respondents,” or “Appellees”). On September 4, 2003, the Appellees filed a Response to Mr. Harrison’s Motion. This Response indicates, in relevant part, that, “contemporaneously with the service of this Notice, [TDOC] has provided a copy of plaintiff’s complete [TDOC] institutional medical record to [Mr. Harrison].” Consequently, Appellees requested that the trial court dismiss Mr. Harrison’s petition as moot.

On October 6, 2003, Mr. White filed a second “Motion for Medical Records,” wherein he asserts that, “in response to [Mr. Harrison’s] motion for his medical records, [TDOC] has given [Mr. Harrison] part of his medical records, and has either lost, misplaced, or destroyed some of [Mr. Harrison’s] medical records sent by Nashville General and the Primary Care Clinic to the Medical Department of TDOC.” From the record, it appears that, following this filing, the case lay dormant until January 2006. On January 27, 2006, the trial court entered a show cause Order, which states, in relevant part: “[T]he Court reviewed the file in the above-captioned matter and determined that the medical records Petitioner sought from the respondents were provided.” Consequently, Mr. Harrison was given thirty days to show cause why the matter should not be dismissed. In response, Mr. Harrison moved the trial court, on March 10, 2006, for a ninety-day extension of time. Respondents did not oppose the motion, and same was granted. Mr. Harrison was released from prison on March 15, 2006. Mr. Harrison was given until April 25, 2006 to show cause why this case should not be dismissed.

On May 1, 2006, Mr. Harrison filed a “Motion to Compel,” or in the alternative a “Motion for Judgment on the Pleadings.” In essence, these filings purport to be a response to the trial court’s show cause order. Mr. Harrison again asserts that he had only been given three-quarters of his medical records. However, Mr. Harrison does not elaborate as to what specific records are missing. Respondents contend that Mr. Harrison was given all of his medical records held by TDOC. On May 22, 2006, the trial court entered its Order dismissing Mr. Harrison’s case without prejudice. Mr. Harrison appeals and raises twelve issues in his brief. We perceive that there is one dispositive issue before us, which is whether the trial court erred in dismissing this action as moot.

We first note a procedural problem with this case. Tenn. R. Civ. P. 3 states, in relevant part, that “[a]ll civil actions are commenced by filing a complaint with the clerk of court.” Here, the record reveals that Mr. Harrison has filed neither a Petition nor a Complaint. Rather, Mr. Harrison has filed only motions. However, even if we assume that Mr. Harrison’s filings satisfy the requirements of Tenn. R. Civ. P. 3, we nonetheless conclude that his grievance was rendered moot by his receipt of the records requested. It appears from the record that Mr. Harrison is in possession of all of the documents available to, or kept by, TDOC. Because Mr. Harrison has not articulated what, if any, documents are missing from his records, we cannot conclude that the trial court erred in determining that Mr. Harrison has all available records. We review the trial court’s findings of fact with a presumption of correctness. Unless the evidence preponderates against the findings, we must affirm absent error of law. *See* Tenn. R. App. P. 13(d). Because Mr. Harrison has received all of the records in TDOC control, and because the record does not support a finding that TDOC withheld, or otherwise mismanaged, these records, the trial court did not err in its determination that this action is moot. Because there is no case in controversy, we pretermitt Appellant’s remaining issues.

For the foregoing reasons, we affirm the Order of the trial court, dismissing Mr. Harrison's case. Costs of this appeal are assessed against the Appellant, Arcenta Van Harrison, and his surety.

W. FRANK CRAWFORD, JUDGE